

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred House Bill 1367, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 3. IC 35-42-4-5, AS AMENDED BY P.L.118-2002,
- 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2003]: Sec. 5. (a) A person eighteen (18) years of age or older
- 6 who knowingly or intentionally directs, aids, induces, or causes a child
- 7 under the age of sixteen (16) to touch or fondle himself or another child
- 8 under the age of sixteen (16) with intent to arouse or satisfy the sexual
- 9 desires of a child or the older person commits vicarious sexual
- 10 gratification, a Class D felony. However, the offense is:
- 11 (1) a Class C felony if a child involved in the offense is under the
- 12 age of fourteen (14);
- 13 (2) a Class B felony if:
- 14 (A) the offense is committed by using or threatening the use of
- 15 deadly force or while armed with a deadly weapon; or

1 (B) the commission of the offense is facilitated by furnishing
 2 the victim, without the victim's knowledge, with a drug (as
 3 defined in IC 16-42-19-2(1)) or a controlled substance (as
 4 defined in IC 35-48-1-9) or knowing that the victim was
 5 furnished with the drug or controlled substance without the
 6 victim's knowledge; and

7 (3) a Class A felony if it results in serious bodily injury.

8 (b) A person eighteen (18) years of age or older who knowingly or
 9 intentionally directs, aids, induces, or causes a child under the age of
 10 sixteen (16) to:

11 (1) engage in sexual intercourse with another child under sixteen
 12 (16) years of age;

13 (2) engage in sexual conduct with an animal other than a human
 14 being; or

15 (3) engage in deviate sexual conduct with another person;
 16 with intent to arouse or satisfy the sexual desires of a child or the older
 17 person commits vicarious sexual gratification, a Class C felony.
 18 However, the offense is a Class B felony if any child involved in the
 19 offense is less than fourteen (14) years of age, and it is a Class A felony
 20 if the offense is committed by using or threatening the use of deadly
 21 force, if it is committed while armed with a deadly weapon, if it results
 22 in serious bodily injury, or if the commission of the offense is
 23 facilitated by furnishing the victim, without the victim's knowledge,
 24 with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance
 25 (as defined in IC 35-48-1-9) or knowing that the victim was furnished
 26 with the drug or controlled substance without the victim's knowledge.

27 (c) A person eighteen (18) years of age or older who knowingly or
 28 intentionally:

29 **(1) engages in sexual intercourse;**

30 **(2) engages in deviate sexual conduct; or**

31 **(3) touches or fondles himself, the person's own body;**

32 in the presence of a child less than fourteen (14) years of age with the
 33 intent to arouse or satisfy the sexual desires of the child or the older
 34 person commits ~~fondling~~ **performing sexual conduct** in the presence
 35 of a minor, a Class D felony."

36 Page 1, line 16, after "offense" insert "**has a prior unrelated**
 37 **conviction:**".

38 Page 2, line 10, delete "has a prior unrelated".

- 1 Page 2, line 11, delete "conviction", begin a new line block
- 2 indented, and insert:
- 3 **"(1)".**
- 4 Page 2, line 11, after "(a)" delete "." and insert **"or (b); or**
- 5 **(2) in another jurisdiction, including a military court, that is**
- 6 **substantially equivalent to an offense described in subsection**
- 7 **(a)".**
- 8 Page 2, line 34, delete "However, the" and insert **"The".**
- 9 Page 2, line 36, after "." insert **"The offense is a Class A**
- 10 **misdemeanor if the person appears in or on school grounds, in a**
- 11 **public park, or in a department of natural resources owned or**
- 12 **managed property with the intent to arouse the sexual desires of**
- 13 **the person or another person."**
- 14 Page 2, line 37, delete "IC 35-45-4-1, as" and insert **"IC 35-45-4-1**
- 15 **and IC 35-42-4-5, both as"**.
- 16 Re-number all SECTIONS consecutively.
- (Reference is to HB 1367 as introduced.)

and when so amended that said bill do pass.

Representative Weinzapfel